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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,790	10/06/2003	Keith Gerard Nemitz	Hodges-Nemitz	3725
7590		04/17/2007		
Keith G. Nemitz 4329 Salem St. Emeryville, CA 94608				
			EXAMINER	
			THOMAS, ERIC M	
			ART UNIT	PAPER NUMBER
			3714	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/17/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/679,790

Applicant(s)

NEMITZ, KEITH GERARD

Examiner

Eric M. Thomas

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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DETAILED ACTION

Response to Amendment

This office action is in response to the amendments filed on 3/5/07, claims 1 – 15 have been cancelled, claims 16 – 22 have been added, claims 16 – 22 are now pending in the current application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16 – 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over the personal computer game “Final Fantasy” (Square Co. release date Jan. 2000), and further in view of “Super Mario 64” (released in 1996).

Regarding claim 16, Square Co. discloses a console role – playing game (RPG) in which the game – play consists of characters who are involved in a narrative that determine the events of story (pg. 6). Basically this means that the user controls the narrative based on decisions he/she makes instead of the character itself. The user is provided with a list of items in which the user has to choose from. Depending on the narrative or a certain event during game – play, the user is presented with a list of items of different types of things (nouns) in

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which the user is allowed to choose from this list in order to advance through the narrative (pgs. 12 and 27).

Regarding claim 17, "Final Fantasy" discloses a list of items or nouns, which are generated depending on events that are happening during game – play (pg. 17). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide an interactive game, which includes a list of nouns that are generated as a result of a certain event.

Regarding claim 18, "Final Fantasy" provides a setting where the game determines which list of items or nouns are available to the user depending on a current situation of the narrative (pgs. 17 and 27). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a setting where lists of elements are provided depending on the situation within the story.

Regarding claim 19, "Final Fantasy" discloses a feature in which the user, in a fight situation, could control the character's actions during the fight, meaning during the execution of an event, which affects its outcome (pg. 17). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include an event of enactment in which the user could control the character's actions.

Regarding claim 20, "Final Fantasy" discloses a feature in which the characters in the narrative may sometimes receive certain items as a result of winning a battle, meaning upon the conclusion of an event involved in the narrative (pg. 11). Therefore, it would have been obvious to one of ordinary skill

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in the art at the time of invention to include a feature, which allows a character that advances through the narrative to receive items as the story progresses.

Regarding claims 21 and 22, as stated above, Square Co. discloses a console role – playing game (RPG) in which the game – play consists of characters who are involved in a narrative that determine the events of story, but is silent on allowing the user to navigate through the history of choices made in a previous situation. However, in a related art, Nintendo's video game of "Super Mario 64" allows a user to return back or replay a level or scene of the game that the user has already played or completed (pg. 22). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a replay feature of Nintendo's "Super Mario 64" in an interactive narrative as an added feature, which enhances the game – play in case the user wanted to return back to a previous narrative for any particular reason which benefits the user.

Response to Arguments

Applicant's arguments with respect to claim 16 - 22 have been considered but are moot in view of the new ground(s) of rejection.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory

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action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric M. Thomas whose telephone number is (571) 272-1699. The examiner can normally be reached on 7a.m. - 3p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EMT

Ronald Jeneau
Primary Examiner
4/13/07